

Agricultural Marketing Service, USDA

§ 1219.57

(j) To facilitate the payment of assessments under this section, the Board shall publish lists of first handlers required to remit assessments under this subpart and exempt handlers.

(k) The Association shall receive an amount of assessment funds equal to 85 percent of the assessments paid on Hass avocados produced in such State. Such funds shall be remitted to such State organization no later than 30 days after such funds are received by the Board. In addition, such funds and any proceeds from the investment of such funds shall be used by the Association to finance promotion, research, consumer information, and industry information programs, plans, and projects in the United States. However, no such funds shall be used for any administrative expenses incurred by the Association.

(l) An association of Hass avocado importers established pursuant to § 1219.58 shall receive an amount of assessment funds equal to 85 percent of the assessments paid on Hass avocados imported by its members. Such funds shall be remitted to such importer association no later than 30 days after such funds are received by the Board. In addition, such funds and any proceeds from the investment of such funds shall be used by the importer association to finance promotion, research, consumer information, and industry information programs, plans, and projects in the United States. However, no such funds shall be used for any administrative expenses incurred by the importer association.

(m) In general, assessment funds received by the Board shall be used:

(1) For payment of costs incurred in implementing and administering this subpart;

(2) To provide for a reasonable reserve to be maintained from assessments to be available for contingencies; and

(3) To cover the administrative costs incurred by the Secretary in implementing and administering this Act, as set forth in § 1219.53(b).

(n) The Board may establish an operating monetary reserve which may carry over to subsequent fiscal periods: *Provided that*, the funds in the reserve

do not exceed one fiscal period's budget. Subject to approval by the Secretary, reserve funds may be used to defray any expenses authorized under this part.

§ 1219.55 Exemption from assessment.

(a) Any sale of Hass avocados for export from the United States is exempt from assessment.

(b) The Board may require persons receiving an exemption from assessments to provide to the Board reports on the disposition of exempt Hass avocados.

§ 1219.56 Adjustment of accounts.

Whenever the Board or the Secretary determines through an audit of a person's reports, records, books, or accounts or by some other means that additional money is due to the Board, the person shall be notified of the amount due. The person shall then remit any amount due the Board by the next date for remitting assessments. Overpayments shall be credited to the account of the person remitting the overpayment and shall be applied against any amounts due in succeeding months unless the person requests a refund of the overpayment.

§ 1219.57 Patents, copyrights, trademarks, publications, and product formulations.

(a) Any patents, copyrights, trademarks, inventions, information, publications, and product formulations developed through the use of funds received by the Board under this subpart shall be the property of the U.S. Government as represented by the Board, and shall, along with any rents, royalties, residual payments, or other income from the rental, sale, leasing, franchising, or other uses of such patents, copyrights, trademarks, inventions, information, publications, or product formulations, inure to the benefit of the Board; shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board; and may be licensed subject to approval of the Secretary. Section 1219.72 describes the procedures for termination.

(b) Should patents, copyrights, trademarks, inventions, publications, or

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product formulations be developed through the use of funds collected by the Board under this subpart and funds contributed by another organization or person, ownership and related rights to such patents, copyrights, trademarks, inventions, publications, or product formulations shall be determined by agreement between the Board and the party contributing funds towards the development of such patent, copyright, trademark, invention, publication, or product formulation in a manner consistent with paragraph (a) of this section.

§ 1219.58 Importer associations.

(a) An association of avocado importers is eligible to receive assessment funds and any proceeds from the investment of such funds only if such importer association is:

(1) Established pursuant to State law that requires detailed State regulation comparable to that applicable to the State organization of domestic avocado producers, as determined by the Secretary; or

(2) Certified by the Secretary as meeting the requirements applicable to the Board as to its operations and obligations, including budgets, programs, plans, projects, audits, conflicts of interest, and reimbursements for administrative costs incurred by the Secretary.

(b) An importer association may represent any importers of Hass avocados including importers of Hass avocados from a particular foreign country. An importer association may be composed of importers as well as representatives of foreign avocado exporting industries. An importer association should establish its own bylaws and may use existing organizations for the establishment of the association and coordination of the association's promotion and research efforts.

(c) For the purposes of the Order, the information required for certification of the importer associations by the Secretary may include, but is not limited to, the following:

(1) Evidence of incorporation under any state law with all appropriate legal requirements;

(2) Evidence that the association is composed of importers that are located

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in any state and subject to assessments under the Order, no matter where the association has been incorporated or in which state the importers reside;

(3) Certification of the association's ability and willingness to further the aims and objectives of the Order;

(4) Evidence of stability and permanency; and

(5) A description of the functions of the association.

BOOKS, RECORDS, AND REPORTS

§ 1219.60 Reports.

(a) Each first handler of domestic Hass avocados, producer, and importer subject to this subpart shall report to the administrative staff of the Board, at such times and in such manner as the Board may prescribe, such information as may be necessary for the Board to perform its duties.

(b) First handler reports shall include, but shall not be limited to, the following:

(1) Number of pounds of domestic Hass avocados received during the reporting period;

(2) Number of pounds on which assessments were collected;

(3) Assessments collected during the reporting period;

(4) Name and address of person(s) from whom the first handler collected the assessments on each pound handled;

(5) Date collection was made on each pound handled;

(6) Record of assessments paid, including a statement from the handler that assessments have been paid on all domestic Hass avocados handled during the reporting period; and

(7) Number of pounds exported.

(c) Each importer subject to this subpart may be required to report the following:

(1) Number of pounds of Hass avocados imported during the reporting period;

(2) Number of pounds on which an assessment was paid;

(3) Name and address of the importer;

(4) Date collection was made on each pound imported and to whom payment was made; and